

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANTHONY T. ARMIJO,

Plaintiff,

vs.

Civ. No. 18-914 KG/GBW


COUNTY OF BERNALILLO, et al

Defendants.

ORDER OF VOLUNTARY DISMISSAL

This matter comes before the Court upon Plaintiff's *pro se* Motion to Withdraw Lawsuit (Motion), filed October 24, 2018. (Doc. 7). He seeks to withdraw his Prisoner Civil Rights Complaint, which raises claims for deliberate indifference to medical needs. (Doc. 1). The Court construes the Motion as a notice of voluntary dismissal under Fed. R. Civ. P. 41(a)(1)(A)(i). That rule gives plaintiffs an absolute right to dismiss the action without prejudice "before the opposing party serves either an answer or a motion for summary judgment." Rule 41(a)(1)(A)(i). *See also Janssen v. Harris*, 321 F.3d 998, 1000 (10th Cir. 2003) (noting Rule 41(a)(1)(i) grants plaintiffs "an absolute right to dismiss without prejudice"). Neither party has filed responsive pleadings or dispositive motions, as the case is still in the screening phase under 28 U.S.C. § 1915. Therefore, the Motion will be granted.

IT IS ORDERED that the Motion to Withdraw Lawsuit (Doc. 7) is granted; and this action is dismissed without prejudice.



UNITED STATES DISTRICT JUDGE